

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN HASTIE,

Plaintiff,

FILE NO. 1:07-CV-345

v.

HON. ROBERT HOLMES BELL

JOHN S. RUBITSCHUN, et al.,

Defendants.

/

ORDER AND JUDGMENT ADOPTING REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to the Magistrate Judge for screening, pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A and 42 U.S.C. § 1997e(c). The Magistrate Judge issued a Report and Recommendation ("R&R"), recommending that this Court dismiss the action for failure to state a claim (docket #6). The matter presently is before the Court on Plaintiff's objections to the R&R (docket #7).

This Court reviews *de novo* those portions of an R&R to which objections are made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court may accept, reject or modify any or all of the Magistrate Judge's findings or recommendations. *Id.*

Plaintiff alleges that he was denied his constitutional right to due process when the Parole Board denied his parole when his Parole Guidelines Scoresheet indicated that he had a high probability of parole. Plaintiff further argues that the Parole Board violated his due

process rights by relying on false and inaccurate information in reaching its decision. He seeks relief in the form of a new hearing and an injunction barring the Parole Board from relying upon the allegedly false information.

The Magistrate Judge determined that Plaintiff's § 1983 action was not barred under the doctrine of *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). *See Wilkinson v. Dotson*, 544 U.S. 74, 82-83 (2005) (where prisoner seeks only a new hearing, not immediate release, an action challenging parole need not be brought as a habeas corpus action). Nevertheless, the Magistrate Judge concluded that, because Plaintiff had no liberty interest in his parole, his due process rights were not implicated by the Parole Board's decision.

In his objections, Plaintiff argues that the Magistrate Judge's legal conclusions were erroneous, essentially rearguing the applicable legal authority. The Court has carefully reviewed both the R&R and the objections, together with the applicable law, and finds no error in the Magistrate Judge's well-reasoned analysis.

Accordingly,

IT IS ORDERED that Plaintiff's objections (docket #7) to the Report and Recommendation of the Magistrate Judge are **DENIED**, and the Report and Recommendation of the Magistrate Judge is **ADOPTED** in its entirety as the opinion of this Court.

IT IS FURTHER ORDERED that Plaintiff's complaint is dismissed for failure to state a claim, pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that the Court finds no good-faith basis for appeal within the meaning of 28 U.S.C. § 1915(a)(3).

Date: July 19, 2007 /s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE